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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/003,092	11/02/2001	Joern Ostermann	2000-0600D	5335
26652	7590	07/06/2007		
AT&T CORP. ROOM 2A207 ONE AT&T WAY BEDMINSTER, NJ 07921			EXAMINER PRENDERGAST, ROBERTA D	
			ART UNIT	PAPER NUMBER
			2628	
			MAIL DATE	DELIVERY MODE
			07/06/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/003,092	Applicant(s) OSTERMANN ET AL.	
	Examiner Roberta Prendergast	Art Unit 2628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 34-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 34-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/14/2007 has been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 35 recites the limitation "zooming the image to allow the user to more accurately mark the image..." in lines 2-3. There is insufficient antecedent basis for this limitation in the claim.

Changing the limitation to read "zooming the image to allow the remote sender to more accurately mark the image..." will be sufficient to reverse this rejection.

Priority

Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged. Applicant has not complied

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with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 120 as follows:

The later-filed application must be an application for a patent for an invention which is also disclosed in the prior application (the parent or original nonprovisional application or provisional application). The disclosure of the invention in the parent application and in the later-filed application must be sufficient to comply with the requirements of the first paragraph of 35 U.S.C. 112. See *Transco Products, Inc. v. Performance Contracting, Inc.*, 38 F.3d 551, 32 USPQ2d 1077 (Fed. Cir. 1994).

The disclosure of the prior-filed application, Application No. 60/245,521, fails to provide adequate support or enablement in the manner provided by the first paragraph of 35 U.S.C. 112 for one or more claims of this application. Provisional Application No. 60/245,521 does not teach delivering a multimedia message comprising the background wherein the animated entity speaks and moves in the context of the background wherein as the animated entity moves an extrapolation method fills voids between the animated entity and the background as claimed in claim 34, lines 3-9.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 34 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gever et al. U.S. Patent No. 6329994 in view of H. Noot and Zs.M. Ruttkay, "CharToon 2.0 Manual", Information Systems (INS), INS-R0004 January 31, 2000, hereinafter H. Noot et al. and Herman et al. U.S. Patent No. 6075905.

Referring to claim 34, Gever et al., teaches a method of creating an animated entity for delivering a multi-media message from a remote sender to a recipient, the method comprising: receiving from the remote sender an image file having a portion associated with an animated entity and a background portion (Fig. 17B-18B; column 3, lines 50-67; column 4, lines 1-25, i.e. an animation having an animated entity and a background image are stored by the user in an HTML file and then sent to the receiver as an e-mail); and delivering a multimedia message comprising the background wherein the animated entity speaks and moves in the context of the background, but does not specifically teach receiving from the remote sender marked features on the image file associated with the animated entity in the context of the background; and wherein as the animated entity moves an extrapolation method fills voids between the animated entity and the background.

H. Noot et al. teaches receiving from the remote sender marked features on the image file associated with the animated entity in the context of the background (Section 3.8. Component editing, page 29, figure 11 and paragraphs 3 and 5; page 30, paragraph 3; page 32, paragraphs 2 and 3, i.e. features are marked in an object file to be animated).

Herman et al. teaches wherein as the animated entity moves an extrapolation method fills voids between the animated entity and the background (column 14, lines 14-44, i.e. extrapolation is performed to fill voids at the image boundaries).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the method of Gever et al. with the teachings of H. Noot et al. and Herman et al. because providing marked features on the image file allows the facial expressions to be accurately modeled during animation and further providing a simple method for image domain extrapolation to handle gaps between a moving object and the background image.

Referring to claim 36, the rationale for claim 34 is incorporated herein, Gever et al., as modified above, teaches the method of claim 34 further comprising receiving a selection from the remote sender of one of a predefined set of animated entities for insertion in a position of the image file associated with the marked features of the image file and wherein delivering the multimedia message comprises presenting the background wherein the selected animated entity speaks and moves in the context of the background (Fig. 5, 7 and 17B; column 3, lines 50-67; column 4, lines 1-25, i.e. the

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sender selects the identity of the animated object from a predefined list and inserts the object into the background).

Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gever et al. in view of H. Noot et al. and Herman et al. as applied to claim 34 above, and further in view of Salesin et al. U.S. Patent No. 5666475.

Referring to claim 35, the rationale for claim 34 is incorporated herein, Gever et al., as modified above, teaches the method of claim 34 but does not specifically teach prior to receiving from the remote sender marked features on the image file associated with the animated entity, zooming the image file to allow the user to more accurately mark the image file associated with the animated entity.

Salesin et al. teaches this limitation (column 1, lines 40-61, i.e. the image is zoomed prior to and/or during editing).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the method of Gever et al. with the teachings of H. Noot et al., Herman et al. and Salesin et al. thereby allowing the user to zoom and edit portions of a multiresolution image at an arbitrary size.

Response to Arguments

Applicant's arguments with respect to new claims 34-37 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following U.S. Patents are cited to further show the state of the art with respect to animated e-mail/messages.

Harvill et al. U.S. Patent No. 6535907

Bellomo et al. U.S. Patent No. 6766299

The following U.S. Patents are cited to further show the state of the art with respect to extrapolation methods.

Jaszlics et al. U.S. Patent No. 6166744

Matsugu et al. U.S. Patent No. 6987535

The following Non-Patent Literature is cited to further show the state of the art with respect to animated e-mail/messages.

Naka, T., et al., "A compression/decompression method for streaming based humanoid animation", Proceedings of Fourth Symposium on Virtual Reality Modeling Language, February 23-26, 1999, VRML '99, ACM Press, NY, NY, pages 63-70.

Perlin, K. et al., "Improv: a system for scripting interactive actors in virtual worlds", Proceedings of the 23rd Annual Conference on Computer Graphics and interactive Techniques, SIGGRAPH '96, ACM Press, NY, NY, pages 205-216.

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Pighin, F., et al., "Synthesizing realistic facial expressions from photographs", Proceedings of the 25th Annual Conference on Computer Graphics and interactive Techniques, SIGGRAPH '98, ACM Press, NY, NY, pages 75-84.

The following Non-Patent Literature is cited to further show the state of the art with respect to extrapolation methods.

Marks et al., "Fuzzy and extra crisp alternating projection onto convex sets (POCS)", Proceedings IEEE International Conference on Fuzzy Systems, Volume 2, 20-24 March 1995, pages 427-435 vol.2.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roberta Prendergast whose telephone number is (571) 272-7647. The examiner can normally be reached on M-F 7:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ulka Chauhan can be reached on (571) 272-7782. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RP 6/22/2007


Ulka Chauhan
Supervisory Patent Examiner